



March 22, 2001

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National Highway Traffic Safety Administration
Docket Management
Room PL-401
400 Seventh Street, S.W.
Washington, DC 20590

**Re: Docket No. NHTSA 2001-8677; Notice 1; — 16
Early Warning Reporting Advance Notice of
Proposed Rulemaking (ANPRM)**

DEPT. OF TRANSPORTATION
DOCKETS
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Ladies and Gentlemen:

Blue Bird Body Company is submitting this comment in response to the National Highway Traffic Safety Administration's (NHTSA) Early Warning Reporting ANPRM, as published in the January 22, 2001 *Federal Register*.

Blue Bird, with its headquarters offices in Macon, Georgia, is a major manufacturer of buses, school buses, and motor homes.

Blue Bird's comments primarily address ANPRM issues which relate to its core products, buses, and school buses.¹

Fatality and Serious Injury Claims

Of the very expansive array of possible types of information report categories identified by the agency, Blue Bird believes that only one of these has "early warning" usefulness as applied to buses and school buses. Certainly, it is in the interest of the agency, the public, and the industry that the first reports regulation issued by NHTSA has focused, limited requirements with the best promise of providing meaningful early warning of safety defects without overburdening NHTSA's and the industry's resources.

¹ Blue Bird reserves the right to comment on aspects of the ANPRM which involve motor homes in a future stage of this rulemaking..

Blue Bird shares the agency's concern about death and serious injury reports. Provided that early warning reports for buses and school buses are limited to this kind of important information, Blue Bird is prepared to report, within 14 calendar days of receipt, even a single written claim, demand, or lawsuit, whether in the United States or a foreign country, alleging a death or serious injury (AIS 3 level or higher) related to a defect in a Blue Bird bus or school bus, and involving one or more passengers within the bus. Any such reports would be provided in a summary form to the agency with such identifying information as suggested in the ANPRM (66 *Fed. Reg.* 6538).

Blue Bird believes that this reporting approach responds directly and fully to the agency's expressed concern, at page 6542 of the ANPRM, that "defect-related information concerning school buses . . . seems critical to us." Blue Bird's offer to report extends not only to its school bus but also its non school and commercial bus products, as these types of motor vehicles are defined in 49 CFR §571.3 of NHTSA's regulations. If the agency, however, seeks to expand the reporting obligations applicable to buses beyond those recommended here, Blue Bird will have to revise its proposal to include incident reporting thresholds for all of its suggested claim categories.

As NHTSA is probably aware, two kinds of accidents involving school buses are (1) fatalities or injuries of children as a result of being run over by a passing motorist or the school bus itself, and (2) passenger car occupant deaths or injuries resulting from a car hitting a school bus. These unfortunate incidents do not involve school bus defects and, accordingly, Blue Bird has excluded them from its proposed reporting program.

Blue Bird also points out that there are, on occasion, delays in its learning of a death or serious injury claim. Typically, this is because a claimant or claimant's counsel does not communicate (written demand or lawsuit) with us until just prior to the expiration of an applicable state statute of limitations.

Other NHTSA Report Categories

Blue Bird does not believe that other reporting proposals suggested by the agency will provide early warning benefit with respect to buses and school buses. Several of these categories are reviewed in the discussion which follows.

1. **Property damage.**

Blue Bird rarely learns of bus or other property damage allegedly caused by a bus. In our experience, such isolated damage claims are usually only communicated to Blue Bird in cases which resulted in a total loss of the vehicle.

2. **Warranty claims and coding.**

Blue Bird does not perceive a correlation between the frequency of warranty claims and an indication of a safety defect.

NHTSA's proposal to require standardization of warranty codes would be a massive undertaking for Blue Bird, with very harmful effects on Blue Bird. It would, among other things, nullify Blue Bird's warranty history for in-house, production line in-process rework tracking and other manufacturing issues. The warranty codes used by Blue Bird play a very important role in its internal monitoring of the production process, including components, repairs, assemblies and subassemblies.

In the past, Blue Bird conducted exhaustive studies of existing warranty codes including those of the American Trucking Association (ATA). Blue Bird found, however, that these codes did not offer sufficient commonality with Blue Bird's needs. Subsequently, Blue Bird developed extensive warranty/failure/repair codes and on-line system for their applications.

3. **Customer and consumer communications.**

Blue Bird believes that information relating to customer satisfaction campaigns, advisories, non-safety campaigns and related activity is already being provided to NHTSA by Blue Bird pursuant to 49 CFR §573.8 (notices, bulletins and other communications). Blue Bird's policy has been to submit this type of information to the agency whether or not "any defect" is involved.

4. **Field reports.**

Blue Bird receives, both electronically and by telephone, "field" information and inquiries throughout each business day from its field representatives, its 72 U.S. distributors, and many other distributors in other parts of the world. Because of Blue Bird's small size, the intake process is informal.

Many of these field inquiries relate to distributor and field representative requests for technical advice. There is little safety related data resulting from the literally hundreds of "field" contacts every week. In cases where field information suggests the possible existence of a safety defect, this information is transmitted to Blue Bird's Product Safety Committee for review and decision with respect to the conduct of a safety recall campaign. With very little safety information contained in the abundance of field data received by Blue Bird, the burdensome task of sorting through all this

information and reducing it into some written, reportable form would be substantial. This effort would overburden Blue Bird's small staff. Blue Bird would also have to significantly upgrade its report intake and recordkeeping processes, for purposes of intake recordation consistency and data retrieval.

5. **Internal investigations.**

Blue Bird, at any given time, has several continuous improvement reviews in process. If this effort falls within what the agency contemplates as an "internal investigation," Blue Bird must question why NHTSA would want to inject itself into what is not only a responsible, productive activity, but which is also a process required for ISO-9000 compliance.

In any case where a safety issue is detected in the course of the continuous improvement process, it is addressed and corrected at the production stage, prior to shipment. Blue Bird urges NHTSA not to involve itself in manufacturer's internal processes. This could only serve to discourage such quality enhancing efforts.

6. **Lawsuits**

Blue Bird believes that lawsuits are often based on allegations that have little direct relationship to safety defects. Further, information regarding lawsuits is not provided to us in a timely manner. Often it is many months or even years after a crash or accident occurred before lawsuits are filed. Because of the lack of factual basis and lack of timeliness, the reporting of lawsuits would not have significant contribution to an "early warning system."

7. **Running changes.**

Buses and school buses, like most trucks, are not limited to periodic (yearly) model changes. Instead, these vehicles are often modified over time through running changes. At Blue Bird, there are production changes occurring throughout each business period. These in large part involve new sales features or other cosmetic changes, vendor components or accessories, and changes to comply with new federal and state regulatory requirements.

Blue Bird submits that this is not a promising area for early warning reports, and that, indeed, trying to generate running change data for agency review would be a very challenging, expensive and burdensome task.

8. **Access to website.**

NHTSA is welcome to access Blue Bird's public site. However, Blue Bird strongly opposes opening its internal website for agency review.

Much of the information contained on the internal website is competitively sensitive, proprietary data, so much so that Blue Bird does not even want its distributors to be able to access this material. Consequently, Blue Bird's internal website has predominant usage only by its employees.

Again, a large portion of the information on Blue Bird's internal website is of a confidential nature. If NHTSA is inclined to pursue website access, Blue Bird inquires as to the protections which the agency intends to build into its report rule data system to assure that this information remains confidential. After all, this sensitive data will not otherwise have been protected by the agency's Confidential Business Information Regulation, 49 CFR Part 512, since Blue Bird would not have knowledge that NHTSA had obtained confidential information from Blue Bird's internal website.

Conclusion

Blue Bird urges NHTSA to take a measured, carefully considered approach in its initial early warning reports regulation. With respect to reports proposed by Blue Bird for bus-related claims, and especially those involving school buses, Blue Bird believes that its fatality or serious injury damage report recommendation will provide the agency with the early warning information it needs and should have for buses and school buses.

Blue Bird appreciates this opportunity to comment on the early warning reporting ANPRM, and urges favorable consideration of its views by NHTSA.

Sincerely,



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c: Doug Freeman – Blue Bird Corporation
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